

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CHRISTOPHER WILLIAM OLSEN ,  
  
Petitioner,  
  
v.  
  
MICHAEL OBENLAND,  
  
Respondent.

Case No. 3:19-cv-06111-BHS-TLF  
  
ORDER GRANTING SECOND  
MOTION TO STAY AND ABEY

This matter is before the Court on Petitioner's second motion to stay and abey this matter. Dkt. 26. Petitioner's motion states that Respondent, while not waiving any arguments or defenses, does not oppose Petitioner's motion to stay. Dkt. 26 at 3.

Petitioner previously sought a stay of this matter after counsel was appointed, in order to draft an amended petition. Dkt. 15. On June 3, 2020, the Court granted the stay, and subsequently granted two extensions. Dkts. 16, 18, 20. On November 12, 2020, Petitioner requested that the stay be lifted and sought leave to file a proposed amended petition. Dkt. 21. The Court granted Petitioner's motion on December 9, 2020 and directed the Clerk to file the amended petition. Dkt. 23. Petitioner now seeks an additional stay, on the ground that he has recently filed a Personal Restraint Petition ("PRP") in state court and, depending on the court's ruling, may further amend his petition in this matter. Dkt. 23 at 2.

1 When faced with a mixed petition of exhausted and unexhausted claims, a  
2 district court may generally exercise one of three options: (1) dismiss the mixed petition  
3 without prejudice to allow the petitioner to present his unexhausted claims to the state  
4 court and then return to federal court to file a new habeas petition containing all of the  
5 claims; (2) stay the mixed petition to allow the petitioner to present his unexhausted  
6 claims to the state court and then return to federal court for review of his perfected  
7 petition; and (3) allow the petitioner to delete the unexhausted claims and to proceed  
8 with the exhausted claims. See *Rhines v. Weber*, 544 U.S. 269, 274-79 (2005). The  
9 Court may stay a petition and hold the proceedings in abeyance where the stay would  
10 be a proper exercise of discretion. *Id.*, at 276. A stay is appropriate where the  
11 petitioner is attempting to properly exhaust claims in state court. *Id.* Here, it appears  
12 that Petitioner is attempting to exhaust state remedies, and the Washington courts  
13 should rule in the state court proceedings in the near future. Therefore, the requested  
14 stay appears appropriate.

15 Therefore, it is **ORDERED** as follows:

16 (1) Petitioner's unopposed motion to stay proceedings is **GRANTED**; this matter  
17 is stayed and abeyed pending further order of the Court; and

18 (2) Petitioner is directed to notify the Court within thirty (30) days of resolution of  
19 his state court proceedings and to provide the Court with a status report of his

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1 state court proceedings on **February 26, 2021** and every ninety (90)  
2 days thereafter.

3 Dated this 18th day of December, 2020.

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Theresa L. Fricke  
7 United States Magistrate Judge  
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